

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**LAMAR KEMP
ADC #085183**

PETITIONER

v.

Case No. 4:20-cv-00774-KGB-JTR

**DEXTER PAYNE, Director,
Arkansas Department of Correction,
Division of Correction¹**

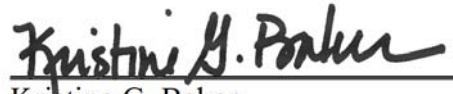
RESPONDENT

ORDER

The Court has reviewed the Recommended Disposition submitted by United States Magistrate Judge J. Thomas Ray (Dkt. No. 2). Petitioner Lamar Kemp has not filed any objections, and the time to file objections has passed. Accordingly, after careful consideration, the Court concludes that the Recommended Disposition should be, and hereby is, approved and adopted in its entirety as this Court's findings in all respects (*Id.*). The Court denies the claims asserted in Mr. Kemp's 28 U.S.C. § 2254 petition and dismisses this case without prejudice (Dkt. No. 1). The Court declines to issue a Certificate of Appealability. *See* 28 U.S.C. § 2253(c)(1)-(2); Rule 11(a) of the Rules Governing Section 2254 Cases.

¹ Mr. Kemp initially named the State of Arkansas as the respondent in this action, but the State of Arkansas is not a proper respondent. *See* 28 U.S.C. § 2242 (habeas petition must name "the person who has custody over [the petitioner]"). Because Kemp is currently incarcerated in the Arkansas Department of Correction, the correct Respondent is Dexter Payne, Director of the Arkansas Department of Correction's Division of Correction. *See* Ark. Code Ann. § 25-43-402(a)(5) (eff. July 1, 2019) ("The Department of Correction . . . now to be known as the Division of Correction[.]"); Ark. Code Ann. § 12-27-101 (eff. July 1, 2019) (establishing a Division of Correction to provide for the custody of adult offenders). The Court directs the Clerk of the Court to substitute Director Payne as the respondent in this case.

It is so ordered this 27th day of January, 2021.



Kristine G. Baker
United States District Judge